

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY MAY 18, 2011

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY MAY 3, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 1156**

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**Introduced by Assembly Member Eng**  
**(Coauthors: Assembly Members ~~Hall~~ Furutani, Hall, Swanson,**  
**Williams, and Yamada)**

February 18, 2011

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An act to amend Sections 32261, 32282, 32283, 48204, and 48900 of the Education Code, relating to pupils.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1156, as amended, Eng. Pupils: bullying.

(1) Existing law establishes the public school system in this state, and, among other things, provides for the establishment of school districts throughout the state and for their provision of instruction at the public elementary and secondary schools they operate and maintain.

Existing law, the Interagency School Safety Demonstration Act of 1985, among other things, requires school districts and county offices of education to be responsible for the overall development of comprehensive school safety plans for schools operating kindergarten or any of grades 1 to 12, inclusive, and further requires the Department of Justice and the State Department of Education to contract with one or more professional trainers to coordinate statewide workshops for school districts, county offices of education, and schoolsite personnel

to assist them in the development of school safety and crisis response plans.

This bill, as of July 1, 2012, would encourage the inclusion of policies and procedures aimed at the prevention of bullying in comprehensive school safety plans. The bill also would require the Department of Justice and the State Department of Education to contract to provide training in the prevention of bullying, as defined in the bill.

(2) Existing law provides for residency requirements for school attendance at a particular school district.

This bill, as of July 1, 2012, would provide that a pupil complies with the residency requirements for school attendance in a school district if ~~that pupil's~~ *his or her* residence is located within the boundaries of another school district, but ~~the pupil~~ *he or she* has been determined by the superintendent of that other school district, or by the principal of the school attended by the pupil in that other school district, to have been the victim of an act of bullying, as defined, committed by a pupil of that other school district, ~~if the pupil~~ *he or she is unable to transfer to another school within the other school district, and he or she is unable* to receive authorization for interdistrict attendance in a timely manner.

(3) Existing law prohibits the suspension, or recommendation for expulsion, of a pupil from school unless the school district superintendent or the school principal determines that the pupil has committed any of various specified acts, including, but not limited to, bullying, as defined to include sexual harassment, hate violence, or harassment, threats, or intimidation.

This bill, as of July 1, 2012, would amend the definition of bullying in this provision by specifying that bullying means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, as defined, including, but not limited to, sexual harassment, hate violence, or harassment, threats, or intimidation, that has the effect or can reasonably be predicted to have the effect of placing a reasonable pupil, as defined, in fear of harm to that pupil's or those pupils' person or property, causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health, causing a reasonable pupil to experience substantial interference with his or her academic performance, or causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

(4) The bill would also make various technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) A safe and civil school environment is necessary for pupils  
4 to learn and achieve.

5 (b) Bullying causes physical, psychological, and emotional harm  
6 to pupils, and interferes with pupils' ability to learn and participate  
7 in school activities.

8 (c) Bullying has been linked to other forms of antisocial  
9 behavior, such as vandalism, shoplifting, truancy and dropping  
10 out of school, fighting, using drugs and alcohol, sexual harassment,  
11 and sexual violence.

12 (d) Because of the negative outcomes associated with bullying  
13 in schools, pupils, parents, and school personnel should be  
14 informed about what behaviors constitute prohibited bullying.

15 (e) If victims of bullying feel unsafe at the schools where they  
16 have been victimized, they should be accommodated if they desire  
17 to attend another school, even if that school is located in another  
18 school district.

19 SEC. 2. Section 32261 of the Education Code is amended to  
20 read:

21 32261. (a) The Legislature hereby recognizes that all pupils  
22 enrolled in the state public schools have the inalienable right to  
23 attend classes on school campuses that are safe, secure, and  
24 peaceful. The Legislature also recognizes that pupils cannot fully  
25 benefit from an educational program unless they attend school on  
26 a regular basis. In addition, the Legislature further recognizes that  
27 school crime, vandalism, truancy, and excessive absenteeism are  
28 significant problems on far too many school campuses in the state.

29 (b) The Legislature hereby finds and declares that the  
30 establishment of an interagency coordination system is the most  
31 efficient and long-lasting means of resolving school and community  
32 problems of truancy and crime, including vandalism, drug and  
33 alcohol abuse, gang membership, gang violence, and hate crimes.

(c) It is the intent of the Legislature in enacting this chapter to support California public schools as they develop their mandated comprehensive safety plans that are the result of a systematic planning process, that include strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on school campuses, and that address the safety concerns of local law enforcement agencies, community leaders, parents, pupils, teachers, administrators, school police, and other school employees interested in the prevention of school crime and violence.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(e) It is the intent of the Legislature in enacting this chapter that the School/Law Enforcement Partnership shall not duplicate any existing gang or drug and alcohol abuse program currently provided for schools.

(f) As used in this chapter, “bullying” has the same meaning as set forth in subdivision (r) of Section 48900.

(g) As used in this chapter, “electronic act” has the same meaning as set forth in subdivision (r) of Section 48900.

SEC. 3. Section 32282 of the Education Code is amended to read:

32282. (a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(1) Assessing the current status of school crime committed on school campuses and at school-related functions.

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school’s procedures for complying with existing laws related to school safety, which shall include the development of all of the following:

1 (A) Child abuse reporting procedures consistent with Article  
2 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of  
3 Part 4 of the Penal Code.

4 (B) Disaster procedures, routine and emergency, including  
5 adaptations for pupils with disabilities in accordance with the  
6 federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec.  
7 12101 et seq.). The disaster procedures shall also include, but not  
8 be limited to, both of the following:

9 (i) Establishing an earthquake emergency procedure system in  
10 every public school building having an occupant capacity of 50  
11 or more pupils or more than one classroom. A district or county  
12 office may work with the California Emergency Management  
13 Agency and the Seismic Safety Commission to develop and  
14 establish the earthquake emergency procedure system. The system  
15 shall include, but not be limited to, all of the following:

16 (I) A school building disaster plan, ready for implementation  
17 at any time, for maintaining the safety and care of pupils and staff.

18 (II) A drop procedure whereby each pupil and staff member  
19 takes cover under a table or desk, dropping to his or her knees,  
20 with the head protected by the arms, and the back to the windows.  
21 A drop procedure practice shall be held at least once each school  
22 quarter in elementary schools and at least once a semester in  
23 secondary schools.

24 (III) Protective measures to be taken before, during, and  
25 following an earthquake.

26 (IV) A program to ensure that pupils and both the certificated  
27 and classified staff are aware of, and properly trained in, the  
28 earthquake emergency procedure system.

29 (ii) Establishing a procedure to allow a public agency, including  
30 the American Red Cross, to use school buildings, grounds, and  
31 equipment for mass care and welfare shelters during disasters or  
32 other emergencies affecting the public health and welfare. The  
33 district or county office shall cooperate with the public agency in  
34 furnishing and maintaining the services as the district or county  
35 office may deem necessary to meet the needs of the community.

36 (C) Policies pursuant to subdivision (d) of Section 48915 for  
37 pupils who committed an act listed in subdivision (c) of Section  
38 48915 and other school-designated serious acts which would lead  
39 to suspension, expulsion, or mandatory expulsion recommendations

1 pursuant to Article 1 (commencing with Section 48900) of Chapter  
2 6 of Part 27 of Division 4 of Title 2.

3 (D) Procedures to notify teachers of dangerous pupils pursuant  
4 to Section 49079.

5 (E) A discrimination and harassment policy consistent with the  
6 prohibition against discrimination contained in Chapter 2  
7 (commencing with Section 200) of Part 1.

8 (F) The provisions of any schoolwide dress code, pursuant to  
9 Section 35183, that prohibits pupils from wearing “gang-related  
10 apparel,” if the school has adopted that type of a dress code. For  
11 those purposes, the comprehensive school safety plan shall define  
12 “gang-related apparel.” The definition shall be limited to apparel  
13 that, if worn or displayed on a school campus, reasonably could  
14 be determined to threaten the health and safety of the school  
15 environment. Any schoolwide dress code established pursuant to  
16 this section and Section 35183 shall be enforced on the school  
17 campus and at any school-sponsored activity by the principal of  
18 the school or the person designated by the principal. For purposes  
19 of this paragraph, “gang-related apparel” shall not be considered  
20 a protected form of speech pursuant to Section 48950.

21 (G) Procedures for safe ingress and egress of pupils, parents,  
22 and school employees to and from school.

23 (H) A safe and orderly environment conducive to learning at  
24 the school.

25 (I) The rules and procedures on school discipline adopted  
26 pursuant to Sections 35291 and 35291.5.

27 (b) It is the intent of the Legislature that schools develop  
28 comprehensive school safety plans using existing resources,  
29 including the materials and services of the partnership, pursuant  
30 to this chapter. It is also the intent of the Legislature that schools  
31 use the handbook developed and distributed by the School/Law  
32 Enforcement Partnership Program entitled “Safe Schools: A  
33 Planning Guide for Action” in conjunction with developing their  
34 plan for school safety.

35 (c) Grants to assist schools in implementing their comprehensive  
36 school safety plan shall be made available through the partnership  
37 as authorized by Section 32285.

38 (d) Each schoolsite council or school safety planning committee  
39 in developing and updating a comprehensive school safety plan

1 shall, where practical, consult, cooperate, and coordinate with  
2 other schoolsite councils or school safety planning committees.

3 (e) The comprehensive school safety plan may be evaluated and  
4 amended, as needed, by the school safety planning committee, but  
5 shall be evaluated at least once a year, to ensure that the  
6 comprehensive school safety plan is properly implemented. An  
7 updated file of all safety-related plans and materials shall be readily  
8 available for inspection by the public.

9 (f) As comprehensive school safety plans are reviewed and  
10 updated, the Legislature encourages all plans, to the extent that  
11 resources are available, to include policies and procedures aimed  
12 at the prevention of bullying.

13 (g) The comprehensive school safety plan, as written and  
14 updated by the schoolsite council or school safety planning  
15 committee, shall be submitted for approval under subdivision (a)  
16 of Section 32288.

17 SEC. 4. Section 32283 of the Education Code is amended to  
18 read:

19 32283. The Department of Justice and the State Department  
20 of Education, in accordance with Section 32262, shall contract  
21 with one or more professional trainers to coordinate statewide  
22 workshops for school districts, county offices of education, and  
23 schoolsite personnel, and in particular school principals, to assist  
24 them in the development of their respective school safety and crisis  
25 response plans, and provide training in the prevention of bullying  
26 as defined in subdivision (r) of Section 48900. The Department of  
27 Justice and the State Department of Education shall work in  
28 cooperation with regard to the workshops coordinated and  
29 presented pursuant to the contracts. Implementation of this section  
30 shall be contingent upon the availability of funds in the annual  
31 Budget Act.

32 SEC. 5. Section 48204 of the Education Code, as amended by  
33 Section 2 of Chapter 33 of the Statutes of 2007, is amended to  
34 read:

35 48204. Notwithstanding Section 48200, a pupil complies with  
36 the residency requirements for school attendance in a school  
37 district, if he or she is:

38 (a) (1) A pupil placed within the boundaries of that school  
39 district in a regularly established licensed children's institution,  
40 or a licensed foster home, or a family home pursuant to a

1 commitment or placement under Chapter 2 (commencing with  
2 Section 200) of Part 1 of Division 2 of the Welfare and Institutions  
3 Code.

4 (2) An agency placing a pupil in the home or institution  
5 described in paragraph (1) shall provide evidence to the school  
6 that the placement or commitment is pursuant to law.

7 (b) A pupil for whom interdistrict attendance has been approved  
8 pursuant to Chapter 5 (commencing with Section 46600) of Part  
9 26.

10 (c) A pupil whose residence is located within the boundaries of  
11 that school district and whose parent or legal guardian is relieved  
12 of responsibility, control, and authority through emancipation.

13 (d) A pupil who lives in the home of a caregiving adult that is  
14 located within the boundaries of that school district. Execution of  
15 an affidavit under penalty of perjury pursuant to Part 1.5  
16 (commencing with Section 6550) of Division 11 of the Family  
17 Code by the caregiving adult is a sufficient basis for a  
18 determination that the pupil lives in the home of the caregiver,  
19 unless the school district determines from actual facts that the pupil  
20 is not living in the home of the caregiver.

21 (e) A pupil residing in a state hospital located within the  
22 boundaries of that school district.

23 (f) A pupil whose residence is located within the boundaries of  
24 another school district, but who meets ~~both~~ *all* of the following  
25 conditions:

26 (1) He or she has been determined by the superintendent of that  
27 other school district, or by the principal of the school attended by  
28 the pupil in that other school district, to have been the victim of  
29 an act of bullying, as defined in subdivision (r) of Section 48900,  
30 committed by a pupil of that other school district.

31 (2) *He or she is unable to transfer to another school within the*  
32 *other school district, as certified by the superintendent of the other*  
33 *school district.*

34 ~~(2)~~

35 (3) He or she is unable to receive authorization for interdistrict  
36 attendance pursuant to Section 46600 in a timely manner.

37 (g) This section shall become operative on July 1, 2012.

38 SEC. 6. Section 48900 of the Education Code is amended to  
39 read:



1     48900. A pupil shall not be suspended from school or  
2 recommended for expulsion, unless the superintendent or the  
3 principal of the school in which the pupil is enrolled determines  
4 that the pupil has committed an act as defined pursuant to any of  
5 subdivisions (a) to (r), inclusive:

6     (a) (1) Caused, attempted to cause, or threatened to cause  
7 physical injury to another person.

8     (2) Willfully used force or violence upon the person of another,  
9 except in self-defense.

10    (b) Possessed, sold, or otherwise furnished a firearm, knife,  
11 explosive, or other dangerous object, unless, in the case of  
12 possession of an object of this type, the pupil had obtained written  
13 permission to possess the item from a certificated school employee,  
14 which is concurred in by the principal or the designee of the  
15 principal.

16    (c) Unlawfully possessed, used, sold, or otherwise furnished,  
17 or been under the influence of, a controlled substance listed in  
18 Chapter 2 (commencing with Section 11053) of Division 10 of the  
19 Health and Safety Code, an alcoholic beverage, or an intoxicant  
20 of any kind.

21    (d) Unlawfully offered, arranged, or negotiated to sell a  
22 controlled substance listed in Chapter 2 (commencing with Section  
23 11053) of Division 10 of the Health and Safety Code, an alcoholic  
24 beverage, or an intoxicant of any kind, and either sold, delivered,  
25 or otherwise furnished to a person another liquid, substance, or  
26 material and represented the liquid, substance, or material as a  
27 controlled substance, alcoholic beverage, or intoxicant.

28    (e) Committed or attempted to commit robbery or extortion.

29    (f) Caused or attempted to cause damage to school property or  
30 private property.

31    (g) Stolen or attempted to steal school property or private  
32 property.

33    (h) Possessed or used tobacco, or products containing tobacco  
34 or nicotine products, including, but not limited to, cigarettes, cigars,  
35 miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew  
36 packets, and betel. However, this section does not prohibit use or  
37 possession by a pupil of his or her own prescription products.

38    (i) Committed an obscene act or engaged in habitual profanity  
39 or vulgarity.

1 (j) Unlawfully possessed or unlawfully offered, arranged, or  
2 negotiated to sell drug paraphernalia, as defined in Section 11014.5  
3 of the Health and Safety Code.

4 (k) Disrupted school activities or otherwise willfully defied the  
5 valid authority of supervisors, teachers, administrators, school  
6 officials, or other school personnel engaged in the performance of  
7 their duties.

8 (l) Knowingly received stolen school property or private  
9 property.

10 (m) Possessed an imitation firearm. As used in this section,  
11 “imitation firearm” means a replica of a firearm that is so  
12 substantially similar in physical properties to an existing firearm  
13 as to lead a reasonable person to conclude that the replica is a  
14 firearm.

15 (n) Committed or attempted to commit a sexual assault as  
16 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal  
17 Code or committed a sexual battery as defined in Section 243.4  
18 of the Penal Code.

19 (o) Harassed, threatened, or intimidated a pupil who is a  
20 complaining witness or a witness in a school disciplinary  
21 proceeding for the purpose of either preventing that pupil from  
22 being a witness or retaliating against that pupil for being a witness,  
23 or both.

24 (p) Unlawfully offered, arranged to sell, negotiated to sell, or  
25 sold the prescription drug Soma.

26 (q) Engaged in, or attempted to engage in, hazing. For purposes  
27 of this subdivision, “hazing” means a method of initiation or  
28 preinitiation into a pupil organization or body, whether or not the  
29 organization or body is officially recognized by an educational  
30 institution, which is likely to cause serious bodily injury or personal  
31 degradation or disgrace resulting in physical or mental harm to a  
32 former, current, or prospective pupil. For purposes of this  
33 subdivision, “hazing” does not include athletic events or  
34 school-sanctioned events.

35 (r) Engaged in an act of bullying. For purposes of this  
36 subdivision, the following terms have the following meanings:

37 (1) “Bullying” means any severe or pervasive physical or verbal  
38 act or conduct, including communications made in writing or by  
39 means of an electronic act, and including one or more acts  
40 committed by a pupil or group of pupils as defined in Section

1 48900.2, 48900.3, or 48900.4, directed toward one or more pupils  
2 that has or can be reasonably predicted to have the effect of one  
3 or more of the following:

4 (A) Placing a reasonable pupil or pupils in fear of harm to that  
5 pupil's or those pupils' person or property.

6 (B) Causing a reasonable pupil to experience a substantially  
7 detrimental effect on his or her physical or mental health.

8 (C) Causing a reasonable pupil to experience substantial  
9 interference with his or her academic performance.

10 (D) Causing a reasonable pupil to experience substantial  
11 interference with his or her ability to participate in or benefit from  
12 the services, activities, or privileges provided by a school.

13 (2) "Electronic act" means the transmission of a communication,  
14 including, but not limited to, a message, text, sound, or image by  
15 means of an electronic device, including, but not limited to, a  
16 telephone, wireless telephone or other wireless communication  
17 device, computer, or pager.

18 (3) "Reasonable pupil" means a pupil who exercises average  
19 care, skill, and judgment in conduct for a person of his or her age.

20 (s) A pupil shall not be suspended or expelled for any of the  
21 acts enumerated in this section, unless that act is related to school  
22 activity or school attendance occurring within a school under the  
23 jurisdiction of the superintendent of the school district or principal  
24 or occurring within any other school district. A pupil may be  
25 suspended or expelled for acts that are enumerated in this section  
26 and related to school activity or attendance that occur at any time,  
27 including, but not limited to, any of the following:

28 (1) While on school grounds.

29 (2) While going to or coming from school.

30 (3) During the lunch period whether on or off the campus.

31 (4) During, or while going to or coming from, a school  
32 sponsored activity.

33 (t) A pupil who aids or abets, as defined in Section 31 of the  
34 Penal Code, the infliction or attempted infliction of physical injury  
35 to another person may be subject to suspension, but not expulsion,  
36 pursuant to this section, except that a pupil who has been adjudged  
37 by a juvenile court to have committed, as an aider and abettor, a  
38 crime of physical violence in which the victim suffered great bodily  
39 injury or serious bodily injury shall be subject to discipline pursuant  
40 to subdivision (a).

1 (u) As used in this section, “school property” includes, but is  
2 not limited to, electronic files and databases.

3 (v) A superintendent of the school district or principal may use  
4 his or her discretion to provide alternatives to suspension or  
5 expulsion, including, but not limited to, counseling and an anger  
6 management program, for a pupil subject to discipline under this  
7 section.

8 (w) It is the intent of the Legislature that alternatives to  
9 suspension or expulsion be imposed against a pupil who is truant,  
10 tardy, or otherwise absent from school activities.

11 SEC. 7. This act shall become operative on July 1, 2012.